

Wage and Hour Division, Labor

§ 510.25

of products produced or distributed, or services rendered.

[55 FR 12120, Mar. 30, 1990; 55 FR 12778, Apr. 5, 1990]

§ 510.22 Industries eligible for minimum wage phase-in.

(a) Appendix A contains a listing of all industries included in the Census of Manufacturing. Appendix B contains a listing of non-manufacturing industries. These listing are organized by SIC numbers, presented by:

(1) Major group (two-digit classification),

(2) Industry group (three-digit classification), and (3) industry (four-digit classification). In each instance the phase-in tier which applies to that industry or group is indicated.

(b) Employers are required to utilize the most detailed classification which applies to their industry. Where an employer's four-digit SIC code is listed, the tier applicable to that code determines the minimum wage phase-in schedule for that employer. (See § 510.10, above).

(c) Where an industry is not listed by four-digit SIC code, employers shall utilize the three-digit which applies to their industry. If a three-digit code is not listed, employers shall use the applicable two-digit code.

[55 FR 12120, Mar. 30, 1990; 55 FR 12778, Apr. 5, 1990]

§ 510.23 Agricultural activities eligible for minimum wage phase-in.

Agriculture activities eligible for an extended phase-in of the minimum wage in Major groups 01, 02, and 07 have been incorporated into Appendix B—Nonmanufacturing Industries Eligible for Minimum Wage Phase-In. Applicable wage rates are effective retroactive to April 1, 1990. Employers in the sugarcane farming industry (SIC Number 0133) who are subject to Tier 3 wage rates but who have paid wage rates based on Tier 2 wage rates may not take any action to recoup such payments where those actions would have the effect of reducing the wage rate being paid at the time of such recoupment to below that required under Tier 3.

[55 FR 53247, Dec. 27, 1990]

§ 510.24 Governmental entities eligible for minimum wage phase-in

(a) The Commonwealth government of Puerto Rico has been determined to be eligible for treatment under Tier 2, on the basis of wage data supplied to the Department.

(b) Appendix C of this part contains a listing of Commonwealth government corporations, indicating the phase-in tier which applies. Entities which do not appear on the list are those for which no wage data were supplied. These entities are therefore categorized under Tier 1, and are ineligible for an extended phase-in.

(c) Appendix D of the part contains a listing of municipalities, indicating the phase-in tier which applies. Municipalities categorized under Tier 1 are those which failed to supply wage data.

(d) Employees of municipalities who have reason to believe that the municipality by which they are employed has been incorrectly categorized, e.g., categorized under Tier 3 instead of Tier 2, may no later than June 1, 1990, file with the Administrator a petition for review. The petition shall be accompanied by any information the employee may have to support a determination that the municipality is incorrectly categorized. In the event the Administrator determines that a tier other than that listed in appendix D of this part applies, the affected municipality shall be liable for retroactive payment of any back wages found to be due.

(e) Certain employees of municipalities or government corporations in which the average wage is less than \$4.00 per hour are eligible to be paid under Tier 4, rather than Tier 3. Tier 4 applies only to those employees employed by municipalities or government corporations who are principally engaged in one or more of the "traditional" functions listed in § 510.24 (a) or (b). All other employees of such entities must be paid in accordance with Tier 3.

[55 FR 12120, Mar. 30, 1990; 55 FR 12778, Apr. 5, 1990]

§ 510.25 Traditional functions of government.

(a) Section 6(c)(4) of the Act, as amended, limits the six-year phase-in